



Tigard City Council Meeting Minutes

Date: October 11, 2005
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon
Attending: Mayor Craig Dirksen Presiding
Councilor Sally Harding
Councilor Sydney Sherwood
Councilor Nick Wilson
Councilor Tom Woodruff
Absent: --

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session	<p>DISCUSSION OF PROPOSED TIGARD MUNICIPAL CODE AMENDMENTS RELATING TO THE BUILDING BOARD OF APPEALS</p> <p>Building Official Lampella presented information to the City Council. A copy of his September 29, 2005, memorandum regarding term expiration dates for the Board of Appeals is on file in the City Recorder's office.</p> <p>Mr. Lampella recommended a staggered term schedule as outlined in his September 29 memorandum.</p>	Council consensus was for staff to proceed as recommended and present this for Council consideration at a future City Council meeting.
	<p>> ADMINISTRATIVE ITEMS</p> <ul style="list-style-type: none"><input checked="" type="checkbox"/> Updates to the Business Agenda<ul style="list-style-type: none">o Agenda Item No. 5 will be set over to the November 8, 2005, Council meeting.o Agenda Item No. 7 – The LCRB consideration should be to:<ul style="list-style-type: none">▪ A motion to award and authorize the City Manager to sign a contract for design and implementation services for the water system telemetry	

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Study Session continued	<p style="text-align: center;">upgrade to Portland Engineering, Inc.</p> <ul style="list-style-type: none"> ○ City Center Development Agency – The Agency will not be asked to approve a proposed resolution tonight. Community Development Staff will present a report on the Urban Renewal Plan and Report. The resolution will be presented to the CCDA for approval at its October 18, 2005, meeting. Public Hearing Notice was sent to day; a copy is on file in the City Recorder's office. ○ Land Use Board of Appeals (LUBA) decision on Ash Creek Estates was to remand one item to the City Council. Mr. John Frewing has filed an appeal with the State Court of Appeals. If the Court upholds the LUBA decision, the Council review of the LUBA remand will be specific to the one item relating to a tree issue. ○ Mayor Dirksen advised he would like to propose that Tigard be considered as the host City for the 2007 or 2008 Oregon Mayors Association Conference. After discussion, City Council members agreed that Tigard should submit a proposal. Costs would include a reception plus staff support. ○ Council reviewed the December City Council meeting schedule and agree to cancel the December 27 meeting and change the December 20 meeting from a workshop meeting to a business meeting. ○ Council members received a copy of the October 17, Agenda: Joint meeting with the Tualatin City Council, Tigard City Council, Tigard-Tualatin School District Board and guests from King City Council. 	

Executive Session	<p>The Tigard City Council went into Executive Session at 6:54 p.m. to discuss labor negotiations and consult with legal counsel regarding litigation likely to be filed under ORS 192.660(2)(d) and 2(h).</p> <p>Executive Session concluded at 7:22 p.m.</p>	Staff will proceed as directed by City Council in Executive Session.
Business Meeting	<p>1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 7:31p.m.</p> <p>1.2 Council Present: Mayor Dirksen, Councilors Harding, Sherwood, Wilson, and Woodruff.</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications & Liaison Reports: None</p> <p>1.5 Call to Council and Staff for Non-Agenda Items: None</p>	
2. Proclamations	<p>Mayor Dirksen:</p> <p>2.1 Proclaimed October 22, 2005 as Make a Difference Day</p> <p>2.2 Proclaimed the week of October 10 to 17, 2005 as Start Making a Reader Today (SMART) Week</p> <p>2.3 Proclaimed the month of October, 2005 as Crime Prevention Month</p>	
3. Citizen Communications	<ul style="list-style-type: none"> ▪ Tigard High School Student Envoy Krista Foltz presented a report to the City Council on Tigard High School Activities. A copy of her report is on file in the City Recorder's office. ▪ Dana Terhune testified requesting support 	

<p>3. Citizen Communications Continued</p>	<p>for the Tigard Skate Park. She referred to former Mayor Griffith's support for this program. Ms. Terhune advised that other sports activities are well represented in the Tigard area and urged the City Council to go forward with its support of the Skate Park.</p> <p>There was discussion about a grant program, which could potentially help the Skate Park. The Skate Park was unsuccessful in securing funding from this grant this year. City Manager Prosser noted that the opportunity for applying for this grant occurs annually. Mayor Dirksen noted that the City has agreed to match fundraising up to \$150,000.</p> <p>Skate Park Task Force Chair Rich Carlson noted that the City of Tigard Volunteer Coordinator is looking for other potential funding sources. In the meantime, Mr. Carlson said the question is, "What is Plan B?" He said they hoped to be able to answer that question.</p> <ul style="list-style-type: none"> ▪ Follow-up to Previous Citizen Communication. City Manager Prosser noted the following: <p>In response to an inquiry from Paul Owen regarding sidewalk and right-of-way maintenance along Durham Road, Public Works Director Koellermeier met with Mr. Owen. This item will be scheduled in the near future for further review by the City Council.</p>	
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4. Consent Agenda	<p>4.1 Approve Council Minutes for September 13, 2005</p> <p>4.2 Receive and File:</p> <ul style="list-style-type: none"> a. Council Calendar b. Council Meeting Tentative Agenda <p>4.3 Approve a Funding Request from St. Vincent de Paul from the City's Residential Services Agency Emergency Set-aside – Resolution No. 05 – 63</p> <p style="text-align: center;">A RESOLUTION APPROVING THE FUNDING REQUEST FROM ST VINCENT DE PAUL FROM THE CITY'S RESIDENTIAL SERVICES EMERGENCY SET-ASIDE</p> <p>4.4 Discontinue the Local Improvement District Formation Process for the Proposed 79th Avenue Local Improvement District – Resolution No. 05 - 64</p> <p style="text-align: center;">A RESOLUTION DISCONTINUING THE LOCAL IMPROVEMENT DISTRICT (LID) FORMATION PROCESS FOR THE PROPOSED 79TH AVENUE LID</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Harding, to approve the Consent Agenda.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p>
5. Heritage Tree Program	<p>This item will not be considered this evening. The action item before the City Council was a resolution; however, the City Attorney advised this should be adopted as an ordinance.</p>	<p>Heritage Tree Program set over to November 8, 2005.</p>
6. Public Hearing – Ballot Measure 37 Claim – Hi Hat	<ul style="list-style-type: none"> o City Attorney reviewed process for a Measure 37 claim. Attorney information on process is on file in the City Recorder's office. o Mayor Dirksen opened the public hearing. o Associate Planner Pagenstecher presented the staff report. A written staff report is on 	<p>Motion by Councilor Wilson, seconded by Councilor Sherwood, to move for denial of the application based on insufficient evidence that a loss of property value has occurred as a result of the sign code regulation.</p>

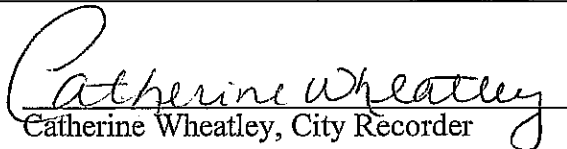
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6. Public Hearing – Measure 37 Claim Continued	<p>file in the City Recorder's office.</p> <ul style="list-style-type: none">Public Testimony: <p>Applicant</p> <ul style="list-style-type: none">The applicant declined to make a statement. <p>Opponent</p> <ul style="list-style-type: none">Robert Leith, 4822 SW Vacuna, Portland OR 97219 said he supported Ballot Measure 37 as something needed to be done about takings. However, he said he thinks this matter before the City Council is a code issue rather than a zoning issue. A code issue is not protected under Ballot Measure 37. <p>Mr. Leith noted all businesses in face restrictions, and he did not want visual pollutions. He also encouraged the use of outside appraisers. Mr. Leith said he was speaking as an interested Oregon resident. He urged City Council to draw the line so the Metro area doesn't turn into "Tobacco Road."</p> <ul style="list-style-type: none">Gretchen Buehner, 13249 SW 136th Place, Tigard, OR 97223 referred to her history with billboard issues including "Constitutionality." She objected to signs such as the Fantasy Video on Highway 99W. (The Mayor later clarified that this sign is in the City of Portland.) She noted the City Council efforts to beautify the City of Tigard. <p>Ms. Buehner said the Hi Hat has been in the Tigard community for 35 years; it is well known. She noted the</p>	<p>City Attorney Ramis confirmed that the above motion was acceptable.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Sherwood</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Sherwood	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
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<p>6. Public Hearing – Measure 37 Claim Continued</p>	<p>property owners have not attended the City of Tigard Measure 37 hearings and she said the property owners should speak so that citizens can hear what they have to say. She noted this claim would not serve the public. She agreed that this is a code issue and that the code requirements do not have any effect on the property valuation.</p> <p>Rebuttal: None</p> <ul style="list-style-type: none"> ○ Staff Recommendation: City Attorney Ramis asked the City Council to weigh the facts to determine if this is a valid claim; whether there has been a demonstration of an impact on valuation. In addition, he questioned whether property ownership issues have been dealt with adequately. <p>Councilor Wilson asked about the chances of the applicant prevailing on appeal if the applicant does not testify at this hearing. City Attorney Ramis advised he did not think it would affect the applicant upon appeal as the Court would hear the matter anew. In response to a question about whether the applicant would have to present a case at court, City Attorney Ramis said, "Yes."</p> <p>Councilor Harding noted she had promised to help beautify 99W and reduce clutter. She said she found it difficult to believe a billboard sign would add \$600,000 of value to the property.</p> <p>Councilor Wilson noted he did not believe Measure 37 protected income stream on property. He noted the applicant does not refer to property value and only talks about</p>	

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<p>6. Public Hearing – Measure 37 Claim Continued</p>	<p>potential income. He noted the location of a billboard across the street and said it should be a simple matter to discuss difference in valuation through use of comparables to determine fair market value.</p> <p>Councilor Sherwood questioned whether a 20-year lease for a billboard would enhance property value.</p> <p>Councilor Woodruff noted the concern with precedence setting if this was approved, citing the potential for every property to have a billboard. He said he would draw the line and say “No.”</p> <p>Mayor Dirksen advised he was respectful of the spirit of Measure 37 and noted that several weeks ago the City Council approved a waiver for a Measure 37 claim, as it appeared this claim met Measure 37 criteria. He said he does not see the same reasoning applicable in this claim; the claimant offers no proof to support the request. Mayor Dirksen added that the City of Tigard might be one of the first cities to face a loss if this goes to trial. He noted he does not support this claim citing quality of life issues.</p> <p>Councilor Woodruff said denial of the claim should not be characterized as opposition to Measure 37. Nothing in Measure 37 addresses generating revenue. He also referred to the past City Council action where a waiver was granted in response to a claim; however, this is different.</p> <p>Councilor Wilson noted the difficult position for the City because no precedence</p>	

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<p>7. Local Contract Review Board – Contract for Water System Telemetry Upgrade</p>	<p>Mayor Dirksen recessed the Council meeting at 8:14 p.m. and called the Local Contract Review Board (LCRB) meeting to order.</p> <p>LCRB present: Chair Dirksen; Board Members Harding, Sherwood, Wilson, and Woodruff.</p>	<p>Motion by Board Member Wilson, seconded by Board Member Sherwood, to award and authorize the City Manager to sign a contract for design and</p>

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7. LCRB – Water System Telemetry Upgrade Continued	<p>Assistant Public Works Director Rager presented the staff report. A written staff report and a September 22, 2005, memorandum from Assistant Public Works Director Rager regarding the telemetry upgrade is on file in the City Recorder's office.</p> <p>Staff recommended the contract be awarded to Portland Engineering, Inc., taking advantage of a competitive bidding process for this work, which was done by the Joint Water commission.</p> <p>Council members confirmed with the staff that, if approved, the awarding of this contract followed the letter and the spirit of the law and that the JWC contract and scope of work were comparable to the project for the City of Tigard. City Attorney Ramis also noted the opportunity to contest the process was available if there were concerns.</p>	<p>implementation services for the water system telemetry upgrade to Portland Engineering, Inc.</p> <p>The motion was approved by a unanimous vote of LCRB members present.</p> <p>Board Chair Dirksen Yes Board Members Harding Yes Sherwood Yes Wilson Yes Woodruff Yes</p>
Adjournment	<p>Council meeting adjourned at 8:25 p.m.</p> <p>(City Council meeting was followed City Center Development Agency meeting. Separate minutes for the CCDA meeting have been prepared.)</p>	


Catherine Wheatley, City Recorder

Attest:


Mayor, City of Tigard

Date: November 22, 2005

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